

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35965]

Indiana Southern Railroad, LLC—Temporary Trackage Rights Exemption—Norfolk
Southern Railway Company

Pursuant to a written trackage rights agreement dated June 29, 2015, Norfolk Southern Railway Company (NSR) has agreed to grant overhead temporary trackage rights to Indiana Southern Railroad, LLC (ISRR), over NSR's line of railroad between milepost 0.8 EJ at Oakland City Junction, Ind., and milepost 4.8 EJ at Enosville, Ind., a distance of approximately 4.0 miles.¹

The transaction may be consummated on or after November 4, 2015, the effective date of the exemption (30 days after the verified notice was filed).

The purpose of the transaction is to allow ISRR limited overhead trackage rights and the ability to provide local rail service to one customer located on the line segment. The parties' agreement provides that the trackage rights are temporary in nature and are scheduled to expire on January 1, 2020.

¹ A redacted version of the Agreement between NSR and ISRR was filed with the notice of exemption. ISRR simultaneously filed a motion for a protective order to protect the confidential and commercially sensitive information contained in the unredacted version of the Agreement, which ISRR submitted under seal in this proceeding. That motion will be addressed in a separate decision.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway, Inc.—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7).² If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by October 28, 2015 (at least 7 days before the exemption becomes effective). An original and 10 copies of all pleadings, referring to Docket No. FD 35965, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market St., Suite 1000, Philadelphia, PA 19103.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: October 16, 2015.

² ISRR states that, because the temporary trackage rights covered by the notice of exemption are longer than one year in duration, it is not filing under the Board’s class exemption for temporary trackage rights under 49 C.F.R. § 1180.2(d)(8). Instead, ISRR has filed under the trackage rights class exemption at § 1180.2(d)(7) and concurrently has filed, in Docket No. FD 35965 (Sub-No. 1), a petition for partial revocation of this exemption to permit these proposed trackage rights to expire on January 1, 2020, as provided in the parties’ agreement. The Board will address that petition in a separate decision.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.